

Original filed 8/8/06

NOT FOR CITATION
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

Petitioner, a California prisoner proceeding pro se, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The Court granted Respondent's motion to dismiss the petition as untimely and entered judgment on April 10, 2003. On June 5, 2003, the Court granted Petitioner's request for a certificate of appealability on the following issues: (1) whether AEDPA's limitation period should be statutorily tolled; and (2) whether AEDPA's limitation period should be equitably tolled in the instant petition. On May 19, 2004, the Ninth Circuit Court of Appeals affirmed this Court's order dismissing the petition as untimely. Thereafter, Petitioner filed a motion for relief from judgment, a first amended motion to vacate judgment, and two letters requesting a status

1 of the instant case.

2 Petitioner requests relief from judgment pursuant to Fed. R. Civ. P. 60(b). Rule
3 60(b) lists six grounds for relief from a judgment. Such a motion must be made within a
4 "reasonable time," and as to grounds for relief (1) - (3), no later than one year after the
5 judgment was entered. See Fed. R. Civ. P. 60(b). Rule 60(b) provides for
6 reconsideration where one or more of the following is shown: (1) mistake, inadvertence,
7 surprise or excusable neglect; (2) newly discovered evidence which by due diligence
8 could not have been discovered before the court's decision; (3) fraud by the adverse
9 party; (4) the judgment is void; (5) the judgment has been satisfied; (6) any other reason
10 justifying relief. Fed. R. Civ. P. 60(b); School Dist. 1J v. ACandS Inc., 5 F.3d 1255, 1263
11 (9th Cir.1993).

12 Petitioner fails to establish any of the grounds for relief pursuant to Rule 60(b). In
13 2004, the Court of Appeals affirmed this Court's dismissal of the instant petition and
14 Petitioner's case is now closed. Accordingly, Petitioner's motion for relief from
15 judgment and motion to vacate judgment (docket nos. 51, 53) are DENIED. The Clerk
16 shall terminate any pending motions. No further motions shall be filed in this closed case.

17 IT IS SO ORDERED.

18 DATED: 8/4/06

19 /s/
20 JEREMY FOGEL
21 United States District Judge
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1 This is to certify that a copy of this ruling was mailed to the following:

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